

# Long-Term Stewardship Workshop:

## Real Issues – Real Solutions

February 28, 2000

Tucson Convention Center

Tucson, AZ



# Waste Management 2000 Symposium

February 27 – March 2, 2000

# Where Are We Now? Current National Policy and Strategy

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## FACILITATOR:

Dr. R.F. Shangraw, Jr., Chief Executive Officer, Project Performance Corporation

## SPEAKERS:

James D. Werner, U.S. Department of Energy, Office of Long-Term Stewardship

James Woolford, U.S. Environmental Protection Agency, Federal Facilities Restoration and Reuse Office

James D. Daniel, U.S. Department of Defense, U.S. Army Environmental Center, Environmental Restoration Division

# Long-Term Stewardship at DOE Sites

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James D. Werner

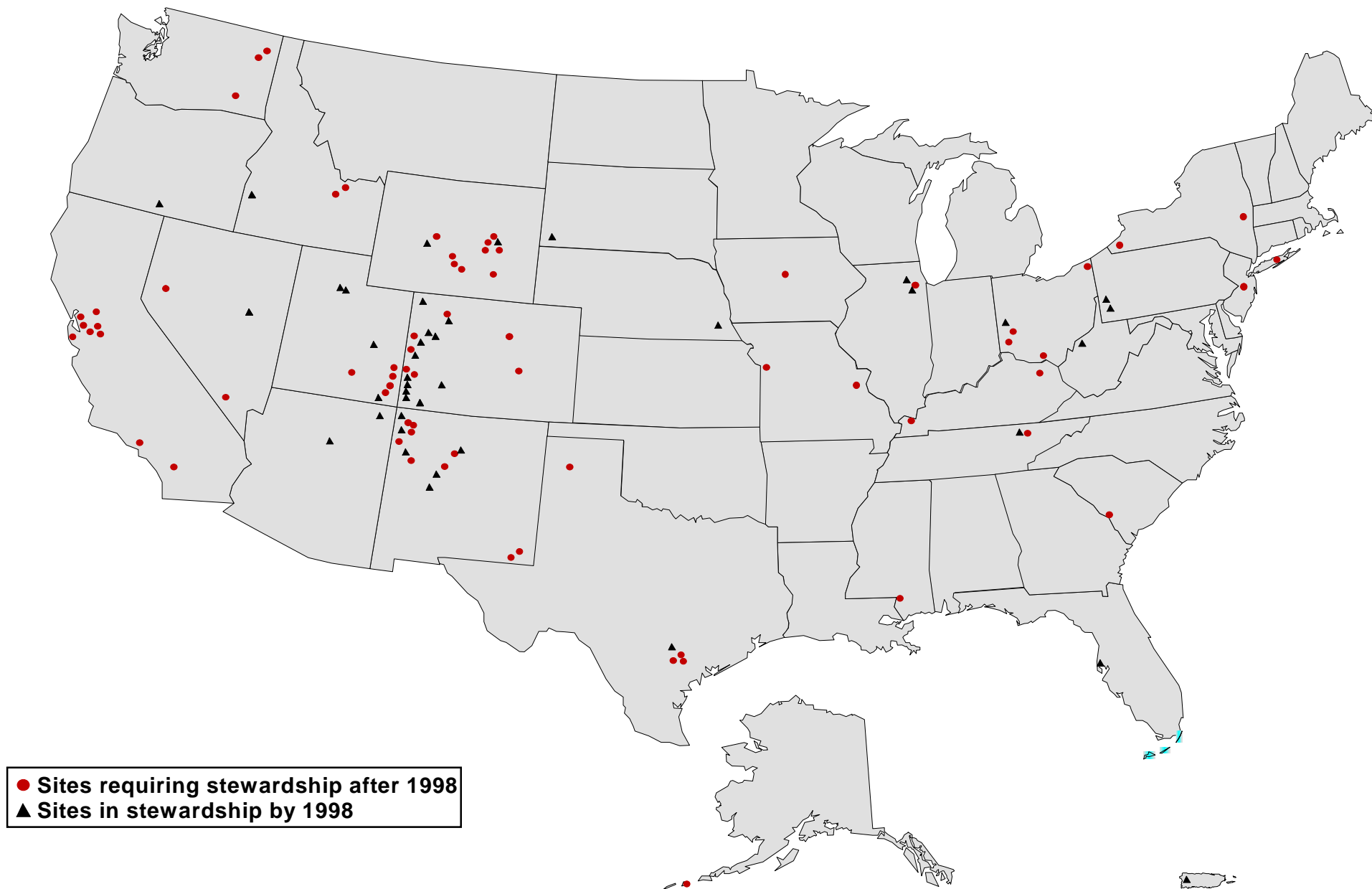
Director, Office of Long Term Stewardship

Office of Environmental Management

U.S. Department of Energy



# 109 Sites are Expected to Require Long-Term Stewardship by DOE



# Long-Term Stewardship (LTS) Study for PEIS Settlement

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## Requirements

- Address national and cross-cutting institutional and programmatic issues, not site-specific issues
- Follow CEQ/DOE NEPA process for public involvement, but not a NEPA document

## Status

- 120-day public scoping period from October 6, 1999 to February 3, 2000
- Scoping workshops in TN, NV, OH, ID, SC, and DC
- Draft Study by Spring 2000
- Final Study following public comment period

## Expected Topics:

- Planning
- Implementation
- Sustainability

# Congressional Report on Long-Term Stewardship

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## Requirements

- The FY 2000 National Defense Authorization Act requires the development of a Long-term Stewardship Report that:
  - Identifies sites or portions of sites where environmental restoration, waste disposal, and facility stabilization will be completed by 2006 without unrestricted land use
  - Includes sufficient detail to undertake the necessary management and stewardship responsibilities including cost, scope, and schedule

## Status

- Information necessary for the Congressional Report must be compiled by DOE Headquarters from Field Office staff
- Data call/guidance was issued in February 2000
- Data are due into headquarters on March 31, 2000
- Final report is due to Congress by October 1, 2000

# Office of Long-Term Stewardship

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Created to address one of Assistant Secretary Huntoon's 6 principles -  
Developing and implementing an effective long-term stewardship program

- Science and Technology Needs
- Programmatic Line Management
- Policy and Guidance
- Land Use Planning
- Information Management
- Liaison with Other Agencies
- Life-Cycle Planning and Sustainability

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# Where Are We Now? Current National Policy and Strategy



# Current EPA National Policies

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James Woolford

Director

Federal Facilities Restoration & Reuse Office

U.S. Environmental Protection Agency



# Presentation Overview

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- 5-Year Review Guidance Document
- 1995 OSWER Land Use Directive
- Federal Facilities Institutional Control Policy
- Region IV Land Use Control Assurance Plan
- Region X Policy on Use of ICs at Federal Facilities
- Additional EPA Policies
- Planned Next Steps

# 5-Year Review Guidance Document

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- CERCLA Section 121 (c) as amended by SARA states that if the President selects a remedial action that results in any hazardous substance, pollutants, or contaminants remaining at the site, the President shall review such remedial action no less often than each five years after the initiation of the remedial action.
- The NCP defines wastes left onsite above levels that allow for unlimited use and unrestricted exposure following the completion of the remedial action.
- Purpose of a five-year review is to determine whether the remedy is protective of human health and the environment upon completion.
- Five-Year Review requirement applies to sites remediated under CERCLA, even non-NPL sites.
- Five-Year Review guidance document outlines the roles and responsibilities for EPA, PRP, Federal Agencies, states, and tribes that use CERCLA authority to clean-up sites.
- Guidance documents establishes procedures for conducting five-year reviews and will be finalized by the end of April 2000.

## Land Use Directive/OSWER, May 1995

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- Discusses “Multi-Use” Sites, including FF’s.
  - Encourages engaging local decision makers early.
  - Extend extra effort to solicit potential “EJ” issues.
  - Baseline risk assessment and remedy. Use reasonable FLU assumptions.
  - Institutional controls only, remedies must be protective of human health and the environment.
- \* Does Not Discuss...Funding, Record keeping, Archiving, Community education, identifying entity to implement institutional controls, or breach of institutional controls.

# Federal Facility Institutional Control Policy, January 2000

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- Applies to all federal real property transfers of contaminated property under CERCLA 120(h)(3).
- Does not apply to property transferred within the government.
- Responsibility for monitoring, maintaining, and enforcing the institutional controls remains with the federal agency responsible for cleanup.
- Establishes that EPA needs information on how the federal agencies plan on monitoring, reporting, and enforcing in order to determine that the institutional controls will perform as expected in the future.
- Outlines ten criteria on which EPA will base opinion.

# Region IV Land Use Control Assurance Plan, April 1998

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- Require LUC Implementation Plan; include Objective, institutional controls, and “How to” institutional controls.
- Identify Program and POC responsible for O&M and Enforcement of institutional controls.
- Funding request commitment for maintaining LUC’s.
- Notification of “Major LU Changes.”
- Certification of Compliance via annual report.
- Advance notice to EPA of lease or sale.

# Region X Policy, Federal Facility Wide Institutional Control Requirements

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- Require Facility wide institutional control Implementation Plan; include objectives, institutional controls , “How to” institutional controls.
- Identify POC for implementing O&M of institutional controls.
- Request and obtain funding for institutional controls.
- Submit report to EPA and State on status of institutional controls annually.
- Notify EPA and State immediately of change in institutional control or land use.
- Advance notice of lease or sale.

## Related Policies

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- OERR ROD Guidance
- CERCLA O&M Guidance
- CERCLA Site Closeout
- CERCLA Site Deletion Policy
- RCRA Site Closure
- Administrative Record Guidance



## Next EPA Steps

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- Federal Facility Draft Policy on Long-Term Protection of Human Health and the Environment.
- Work with DOE, DOD, OPAs, States, Tribes, et.al.

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# Where Are We Now? Current National Policy and Strategy

# Land Use Controls (LUCs): *A DoD Perspective*

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James D. Daniel

U.S. Department of Defense,

U.S. Army Environmental Center, Environmental Restoration  
Division



## Use of LUCs: *Issues at the National Level*

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- EPA Brownfields Sites
- Private Sites
- Superfund Sites
- DoD Property to be transferred
- State Brownfields and Voluntary Cleanup Program Sites
- DoD Active Installations

## Land Use Controls: *How LUCs are Used*

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- NCP recognizes LUCs as tool
- Used in cleanup
  - Active installations
  - Property for transfer
- Use in cleanup becoming more recognized
- Controls or eliminates exposure pathways

# Land Use Controls:

## *DoD Policy & Guidance Overview*

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- Policy & Guidance in final coordination
- Serve as an internal DoD tool
  - Environmental
  - Real Estate/Land planning
- Provide a consistent DoD-wide framework

# Land Use Controls:

## *Guidance for Property Transferred Out of Federal Control*

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### Overview

- For real property transferred out of federal control
  - Not applicable to active installations or Federal-to-Federal transfers
- Assumes environmental decision made
- Provides comprehensive approach
  - Pre-Transfer
  - At Transfer
  - Post-Transfer
  - Modification/termination
- Minimizes likelihood of violation

# Land Use Controls:

## *Guidance for Property Transferred Out of Federal Control*

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### Pre-Transfer

- Facilitate needs of community
- Involve state and local agencies and other stakeholders
- Record information in FOST
- Develop layering strategy



# Land Use Controls:

## *Guidance for Property Transferred Out of Federal Control*

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### At Transfer

- Disposal Agent drafts deed language
- Deed is recorded by transferee

# Land Use Controls:

## *Guidance for Property Transferred Out of Federal Control*

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### Post-Transfer

- LUC maintenance tools available
- Growing trend for LUCs in state law
- DoD has limited oversight authority
- Management and control systems applied

# Land Use Controls:

## *Guidance for Property Transferred Out of Federal Control*

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### Modification/Termination and Records Management

- Termination or modification of LUC
- Real estate records retention and management

# Land Use Controls:

## *Guidance for Active Installations -- Overview*

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- For real property on active installations
  - Applicable to active installations
- Assumes environmental decision made
- Provides comprehensive approach
  - Implementation and Annotation
  - Maintenance
  - Modification/Termination
- Minimizes likelihood of violation

# Success of Land Use Controls

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- LUCs are often necessary
- LUCs are “creatures” of state/local law
- LUCs require flexible implementation/management framework
- LUCs can remain protective of human health and the environment